



C.R.P.(PD) No.3069 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2022

CORAM : JUSTICE N.SESHASAYEE

C.R.P.(PD) No.3069 of 2019
and C.M.P.No.19785 of 2019
and C.M.P.No.3446 of 2020

1.A.Abdul Kareem
2.A.Shahida

... Petitioners / Respondents 2 & 3 /
Defendants 1 &2

Vs.

1.Asraf Ali Khan

... 1st Respondent / Petitioner / Proposed
Party

2.Fathima Beevi

... 2nd Respondent / 1st Respondent/ Plaintiff

3.The Sub Registrar

Office of the Sub Registrar

Selaiyur

Kancheepuram District.

... 3rd Respondent / 4th Respondent /
3rd Defendant

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order 02.07.2019 passed in I.A.No.44 of 2019 in O.S.No.184 of 2014 on the file of the learned District Munsif Court, Tambaram.



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For Petitioner : Ms.T.Jayalakshmi
for M/s.Paul & Paul

For Respondents : Mr.R.Ramadas [R1]
Mr.D.Murthy [R2]
Ms.P.Vijayadevi
Government Advocate for R3

ORDER

The defendants 1 & in O.S.No.184 of 2014 on the file of District Munsif Court, Tambaram, has come before this Court challenging the order allowing impleadment of son of the plaintiff vide order dated 02.07.2019 in I.A.No.44/2019.

2. The learned counsel for the revision petitioners submitted that the suit is laid by the second respondent herein for declaration of her title and for other ancillary reliefs, and in the plaint she has asserted that she is the title holder of the property. However, in the course of cross-examination, it was elicited that she is not the title holder of the property, but his son. Midway through the cross-examination, the plaintiff's son has taken out I.A.No.44/2019 for impleading himself as the second plaintiff, since the patta of the property stands in his name.



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3. The counsel for the revision petitioners submitted that this is a new theory brought in midway through the case, and it alters the very character of the suit.

4. Heard Mr.R.Ramadas, learned counsel for the first respondent, Mr.D.Murthy, learned counsel for the second respondent and Ms.P.Vijayadevi, learned Government Advocate for the third respondent.

5. Mere admission of anyone as a plaintiff without any amendment of the body of the plaint, *per se* will not alter the character of the suit or the nature of the relief sought. And, the defendants defends only the cause of action for the suit and the burden is on the plaintiff to sustain the said cause of action. Therefore, inasmuch as the body of the plaint is not tinkered with, nor the relief sought is altered, the revision petitioners need not get panicky at this point of time.

6. The respondents 1 and 2 however submits that the title continues with the plaintiff, and only the property was sub-divided and the patta stands in the name of her son. This is an issue on merit and this Court does not want



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to engage itself on this aspect, and it is left open to the trial Court to consider on applying necessary principles of law.

7. To sum up, this Court does not find any illegality, impropriety in the impugned order, and it does not intend to interfere with the order passed, more so because it does not affect the nature of the case or the line of defense, the defendants 1,2 / revision petitioners have adopted.

8.The revision is accordingly disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

22.04.2022

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

ds

To:
The District Munsif Court
Tambaram.



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N.SESHASAYEE.J.,

ds

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